

**REMARKS/ARGUMENTS**

Claims 1-9 are in the application.

In the last office action, objection was made to the drawings as not showing the trap referred to in claim 1. Claim 1 has now been amended to delete the reference to the trap. Accordingly, the objection to the drawings is believed to have been overcome.

Objection was also made to the use of reference numerals in the claims. The claims have now been amended to delete all reference numerals.

Objection to the phrase "this chamber" in claim 1 has been addressed by cancelling the objectionable language from the claim.

The objection to "clickon" in claim 3 is believed to have been intended to apply to claims 4 and 8. Claims 4 and 8 have now been amended to recite "click on".

Claims 1-9 were rejected under 35 U.S.C. § 112 for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

The objectionable phrase "this chamber forms a chamber" has been amended to "said anti-prick cage has a chamber".

The objectionable phrase "this end" has been amended to "said puncture end".

The objection to "said contact end" in claim 5 is believed to have been intended to apply to claim 2. Claim 2 has now been amended to refer to the ends of the retention device as "said one

end" and "said opposite end" for which there is antecedent basis in claim 1.

In claims 5 and 9, "lever", which lacks antecedent basis, has been replaced with "retention device".

Claims 1, 2 and 6 have been rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 5,853,393 to Bogert in view of U.S. Patent No. 5,215,528 to Purdy et al. Claim 1 has been amended to distinguish from the cited art.

Bogert discloses a catheter needle locking and catheter hub unlocking mechanism with a retention device in the form of a latching element 26 having a T-shaped structure 38 with a central plate portion 36 in which there is a central aperture 24 through which a needle 22 passes. Bogert's retention device is, itself, a spring. That is, the T-shaped structure is formed from a plastic material which has a "spring or biasing action" (see column 6 lines 9-11).

As the needle 22 is retracted from the catheter through the aperture 24 in the plate portion 36, the spring or biasing action of the plastic material of the T-shaped structure causes it to pivot or bend thereby causing the aperture 24 to be displaced upwardly and the plate portion 36 to prevent the tip of the needle 22 from extending beyond the nose guard portion of the housing, and a hook-like projection 46 at an end of an arm 44 of the T-shaped structure to disengage a Luer lug 50 from within a recess 48 in the arm 44 (see column 6, lines 7-17).

In responding to the office action of October 9, 2009, wherein claim 1 was rejected as anticipated by Plassche and by Gaba, applicant's invention was distinguished as differing from the prior art in that it avoids the need for exerting a spring force on the retention device. In Plassche and Gaba, tension was caused by a spring external to the retention device which urged the retention device against the needle. Bogert's spring biased mechanism differs from Plassche's and Gaba's spring biased mechanisms in that Bogert's retention device is, itself, a spring. That is, Bogert's T-shaped structure is formed from a plastic material which has a "spring or biasing action" (see column 6 lines 9-11). Applicant's invention differs from Plassche, Gaba and Bogert in that it dispenses with the need for a spring.

The difference between the retention devices of Bogert's and applicant's devices can readily be seen by comparing Bogert's Fig. 1 with applicant's Fig. 3. In Bogert, the resiliency of the T-shaped retention device urges the bottom wall of the aperture 24 upwardly against the bottom of the shank of the needle. In applicant's device an end 6b of the retention device rests on the top of the needle solely under its own weight.

In likening Bogert's device to that of applicant, the examiner described "the only friction between the needle and the opposite end of . . . [Bogert's] device [as] being due to the weight of the end of the device". As shown above, contrary to the examiner's assertion, friction between Bogert's retention device and needle is

not due to the downward force of the weight of the end of the device. It is due to the upward force of the resilient plastic from which Bogert's T-structure retention device is formed.

Purdy also uses a spring and is cited solely for its disclosure of a bulged needle. Nowhere in Bogert or Purdy is there disclosed a retention device which is operated solely by its own weight and utilizes no springs.

In order to more clearly emphasize the aforementioned distinction, claim 1 has been further amended to recite that the retention device is unbiased by "any force other than it's own weight." Support for the amendment is found in the original specification at page 6 lines 21-24, and claim 2 as originally filed. In view of this amendment, claims 1, 2 and 6 are now believed to be patentable over Bogert in view of Purdy.

Claims 3, 4, 7 and 8 have been rejected under 35 U.S.C. § 103 as obvious over Bogert and Purdy et al. in view of U.S. Patent No. 5,697,907 to Gaba. As explained above and in applicant's previous response, Gaba also relies on a spring and does not affect the patentability of claim 1 from which claims 3, 4, 7 and 8 depend. Accordingly, claims 3, 4, 7 and 8 are believed to be patentable over Bogert in view of Purdy and Gaba.

Claims 5 and 9 have been rejected under 35 U.S.C. § 103 as obvious over Bogert and Purdy et al. in view of U.S. Patent No. 5,498,244 to Eck.

Eck describes a safety guard device, for medical instruments, having a biasing arm (12) attached or formed to a syringe guard body (11) in such manner that it provides a force to direct an intrusion tab (13) in the direction of the syringe. This creates a spring-action hinge tending to force the biasing arm into a prescribed position. Hence, Eck also relies on a spring and does not affect the patentability of claim 1 from which claims 5 and 9 depend. Accordingly, claims 5 and 9 are believed to be patentable over Bogert in view of Purdy and Eck.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance. Early and favorable action is earnestly solicited.

An unpaid fee required to keep this case alive may be charged to deposit account 06-0735.

Respectfully Submitted,

/Howard F. Mandelbaum/  
Howard F. Mandelbaum  
Registration No. 27,519  
Attorney for Applicant

HFM:tct